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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,771	12/10/2001	Heinz Juergen Niggel	1454.1101	7093

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,771

Applicant(s)

NIGGL, HEINZ JUERGEN

Examiner

James O. Hansen

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NEW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the appeal brief filed on March 15, 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1-4, the phrase "hook-like" renders the claims indefinite because the claims may include elements not actually disclosed (those encompassed by the recitation "hook-like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 & 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Krantz [U.S. Patent No. 1,557,006]. Krantz (figures 1-3) teaches of a mechanical connection comprising: a sheet metal casing (fig. 1) having a base part (4), a pair of side walls (6) and a rear wall (either (5)) such that when assembled, each side wall adjoins one side of the rear wall, each side wall having a top rear corner in a region displaced from the base part and adjacent to where the side wall joins the rear wall when assembled, the base part, the pair of side walls and the rear wall all being formed from a single sheet-metal part (col. 1); a cutout (9) formed in each of the side walls in the region of the top rear corner; an angled section (viewed as the outer section of (5) bounded by the outer members (14)) formed on the rear wall; and a hook shaped extension (16) provided at the sides of the angled section, the extensions snap into the cutouts of the side walls when the rear wall is swung into position (see fig. 3). The extensions being formed integrally with the angled section.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandle [U.S. Patent No. 3,093,291]. Brandle (figures 1-9) teaches of a mechanical connection comprising: a casing (fig. 7) having a base part (12), a pair of side walls (13, 14) and a rear wall (16) such that when assembled, each side wall adjoins one side of the rear wall, each side wall having a top rear corner in a region displaced from the base part and adjacent to where the side wall joins the rear wall when assembled, the base part, the pair of side walls and the rear wall all being formed from a single sheet-metal part; a cutout (18a) formed in each of the side walls in the region of the top rear corner; an angled section (viewed as the outer section of (16) bounded by the outer members (21)) formed on the rear wall; and a hook shaped extension (21 & 19) provided at the sides of the angled section, the extensions snap into the cutouts of the side walls when the rear wall is swung into position (see fig. 6). The extensions being sloped such that the width increases from a front (viewed as the element (21) portion) to a back (viewed as the element (19) portion) of the extensions. The extensions being formed integrally with the angled section. Brandle teaches applicants inventive claimed structure as disclosed above, but does not utilize "sheet-metal" as the material for forming the casing. The examiner has taken the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to form the casing. Accordingly, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use since the substitution of materials would not adversely affect the function of the structure being formed, and such a

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substitution is in step with the knowledge generally available to one of ordinary skill in the art.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Girard, Evans, Fadaie and Bachmann describe a casing formed from a single sheet of material and including a mechanical connection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James O. Hansen
Primary Examiner
Art Unit 3637

JOH
July 9, 2004